IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

ST.Rev..No. 136 of 2004

TA.743/1999 of S.T.A.T.ADDL.BENCH,ERNAKULAM DT. 16.6.2003
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REVISION PETITIONER/APPELLANT/APPELLANT ASSESSEE:

M/S.BHADI BHAT & COMPANY, KOCHI-2.

BY ADV. SRI.K.SRIKUMAR

RESPONDENT/ RESPONDENT/RESPONDENT/REVENUE:

STATE OF KERALA.

BY SR. GOVERNMENT PLEADER SRI. MUHAMMED RAFIQ.

THIS SALES TAX REVISION HAVING COME UP FOR ADMISSION ON 17/12/2007 ALONG WITH ST.REV. NO.263/04, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

H.L. DATTU, C.J. & K. M. JOSEPH, J.

S.T.REV. NOS. 136 & 263 OF 2004

Dated this the 17th December, 2007

JUDGMENT

H. L. DATTU, C.J.

Assessee being aggrieved by the orders passed by the Sales Tax Appellate Tribunal in T.A. Nos.743/99 & 744/99 dated 16.6.2003, is before us in these Tax Revision Cases. The assessment year in question is 1995 - 1996.

2. The assessee is a dealer registered both under the KGST Act & CST Act. He procures copra and manufactures coconut oil, and effects sale within the State as well as outside the State. He had claimed exemption/reduced rate of tax under two Notifications, namely SRO Nos.427/95 and 1731/93 in the annual returns filed both under KGST and CST Act.

3. The Tribunal while disposing of the Appeals filed in T.A. Nos.743/99 & 744/99, has relied upon SRO No.427/95 in rejecting the Appeals filed by the assessee against the orders passed by the Assessing Authority for the year 1995-1996, both under the KGST Act and CST Act.

4. Shri K. Srikumar, learned counsel for the petitioner submits that the Tribunal was not justified in relying upon SRO No.427/95 for rejecting the claim of the assessee under the provisions of the CST Act, in view of the Notification issued by the State Government, namely SRO No.1731/93.

5. In our opinion, the contention taken by the learned counsel for the petitioner, cannot be decided by us in these Revision Cases. It would be appropriate for the petitioner, if it so desires, to before the Tribunal by making appropriate Review Petition to consider the case of the petitioner/assessee with reference to SRO No.1731/93.

6. In view of the above, we reject the Revision Petitions for the present. However, we reserve liberty to the petitioner, if it so desires, to file an appropriate Review Petition before the Tribunal for appropriate reliefs. It is needless to say, if and when such a Review Petition is filed, the Tribunal will consider the same in accordance with law.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE

K.M. JOSEPH,
JUDGE

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